

Message Text

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EB/ITP:TWESTAN(SUBS)
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EA/J:HCOCHRAN(SUBS)
EA/EP:DBOERIGTER(SUBS)
JUSTICE:JDAVIDOW
FTC:JFISCHBACH(INFO)
-----025264 122239Z /70
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FM SECSTATE WASHDC
TO AMEMBASSY TOKYO

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E.O. 11652: GDS

TAGS: ETRD, JA

SUBJECT: ANTI-TRUST BILATERAL CONSULTATIONS

REF: A) TOKYO 7489; B) STATE 105748

1. IN A LETTER DATED JUNE 30, 1977 THE ACTING ASSISTANT
ATTORNEY GENERAL IN CHARGE OF THE ANTITRUST DIVISION, JOHN
H. SHENEFIELD, WROTE TO M. TAKIGAWA, COMMISSIONER, FAIR
TRADE COMMISSION, INVITING MEMBERS OF HIS STAFF TO WASH-
INGTON THE SECOND OR THIRD WEEK IN SEPTEMBER FOR TWO OR
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THREE DAYS OF TALKS AT THE ANTITRUST DIVISION AND THE
FEDERAL TRADE COMMISSION.

2. THE PURPOSE OF THE VISIT WOULD BE TO HOLD BILATERAL CON-
SULTATIONS BETWEEN STAFF MEMBERS OF THE JAPANESE FAIR TRADE
COMMISSION AND THE U.S. ANTITRUST AGENCIES ON "RECENT
DEVELOPMENTS OF MUTUAL INTEREST." JUSTICE BELIEVES THAT

SUCH CONSULTATIONS "CAN BE OF ASSISTANCE TO OUR AGENCIES IN MAKING INFORMAL ENFORCEMENT DECISIONS, IN COORDINATING POLICIES WHERE THAT IS APPROPRIATE, IN LEARNING FROM THE EXPERIENCE OF OTHERS, AND IN AVOIDING MISUNDERSTANDING BETWEEN NATIONS."

3. MORE SPECIFICALLY, JUSTICE HAS SUGGESTED THAT THE AGENDA MIGHT INCLUDE SUCH TOPICS AS FOLLOWING:
QUOTE (A) HOW TO EFFECTUATE ORDERLY MARKETING ARRANGEMENTS SO AS TO RETAIN THE GREATEST AMOUNT OF COMPETITIVE FREEDOM AND VIGOR COMPATIBLE WITH THE PURPOSES OF SUCH AN ARRANGEMENT;

(B) LICENSING OR DISTRIBUTION ARRANGEMENTS BETWEEN AMERICAN AND JAPANESE FIRMS WHICH CONTAIN RESTRICTIONS UNREASONABLY PREVENTING EXPORTS BACK TO THE HOME COUNTRY OF THE LICENSOR;

(C) THE INTERPRETATION AND OPERATION OF THE NEW AMERICAN LAW ON PRE-MERGER NOTIFICATION AS IT MAY AFFECT MERGERS INVOLVING JAPANESE FIRMS. END QUOTE.

4. DISCUSSION OF A POSSIBLE BILATERAL ANTITRUST COOPERATION AGREEMENT IS NOT AN AGENDA ITEM NOR THE PRIMARY PURPOSE OF THE SEPTEMBER MEETING.

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5. FYI. JUSTICE ALSO INFORMED DEPARTMENT THAT PROPOSED BILATERAL CONSULTATIONS ARE FOLLOW-UP TO DISCUSSIONS WITH TAKIGAWA IN PARIS AT OECD MEETING OF COMMITTEE OF EXPERTS ON RESTRICTIVE BUSINESS PRACTICES (MAY 26-27) WHO INDICATED HE WISHED TO HAVE A GENERAL DISCUSSION ON ANTITRUST MATTERS OF MUTUAL INTEREST. FURTHER, TAKIGAWA FELT THAT ESTABLISHING A PATTERN OF BILATERAL CONSULTATION WOULD BE USEFUL. HE ALSO INDICATED THAT IF THE FIRST MEETING WAS SUCCESSFUL, THERE WOULD LIKELY BE AN INVITATION TO U.S. ANTITRUST OFFICIALS TO VISIT JAPAN FOR SIMILAR TALKS. END FYI.

6. DEPARTMENT HAS INFORMED JAPANESE EMBASSY ABOUT SUBSTANCE OF PARAGRAPHS ONE THROUGH FOUR ABOVE.

7. JUSTICE WILL KEEP DEPARTMENT INFORMED ABOUT FUTURE DEVELOPMENTS AS THEY OCCUR. VANCE

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